

CHAPTER NO. 432

HOUSE BILL NO. 1276

By Representatives Briley, Fitzhugh, Stanley, Coleman, McMillan, Larry Turner, Newton

Substituted for: Senate Bill No. 565

By Senator Kyle

AN ACT to amend Tennessee Code Annotated, Title 9, Chapter 1; Title 9, Chapter 4 and Title 45, Chapter 2, relative to deposits.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 9, Chapter 1, is amended by adding as a new Section 9-1-118, the following:

9-1-118.

(a) In addition to other investments authorized by law, and notwithstanding any other provisions of law, the state and other government entities (including counties, municipalities, districts, and other public or quasi-public corporations and public officials, boards, agencies, or other public or quasi-public entities) are expressly authorized and empowered to deposit, invest or place for deposit funds held by them, including sinking funds and pension and retirement funds, in accordance with the following conditions:

(1) The funds are initially deposited, invested, or placed for deposit through a bank or savings and loan association with a branch in Tennessee authorized to accept deposits that is selected by the government entity;

(2) To prevent deposits from exceeding the insurance coverage provided by the federal deposit insurance corporation, the government entity making the deposit shall provide the selected depository with written notification of the names of all banks and savings and loan associations that are holding funds other than funds deposited or placed in accordance with this section on behalf of the governmental entity and on behalf of any department, agency, or other instrumentality having the same federal employer identification number (FEIN) as the governmental entity;

(3) The selected depository arranges for the deposit of the monies in certificates of deposit in one or more federally insured banks or savings and loan associations wherever located, for the account of the government entity; provided that the selected depository shall not arrange for the deposit of the monies with any bank or savings and loan association listed in the notification provided by the government entity pursuant to subdivision (a)(2) of this section;

(4) The full amount of principal and any accrued interest of each such certificate of deposit is insured by the Federal Deposit Insurance Corporation;

(5) The selected depository is authorized to and acts as custodian for the government entity with respect to such certificates of deposit issued for its account or if uncertified deposits, books and records evidencing the deposit; and

(6) At the same time that the government entity funds are deposited and the certificates of deposit are issued, the selected depository receives an amount of deposits from customers of other federally insured financial institutions wherever located equal to or greater than the amount of the funds initially invested by the government entity through the selected depository.

(b) To the extent insured by applicable federal deposit insurance, funds invested, deposited or placed for deposit in accordance with the conditions prescribed in this section shall not be subject to any additional security or collateral that may be applicable to the deposit or investment of public funds.

(c) Any funds invested, deposited or placed for deposit which are not covered by federal deposit insurance shall be collateralized in the same manner as state deposits, as provided in title 9, chapter 4, or in the collateral pool as provided in title 9, chapter 4, part 5.

(d) The selected depository shall not utilize any organization to perform or otherwise provide the services hereunder unless the state treasurer has approved the organization's request to perform such services. Such approval by the state treasurer shall be submitted to the commissioners of financial institutions and finance and administration for their concurrence.

(e) This investment is subject to the approval of the state funding board for investments made by the state treasurer. This investment is subject to the approval of the respective boards of the University of Tennessee and the Board of Regents for their systems. For political subdivision officials responsible for investing funds of local governments, this investment is subject to the approval of the appropriate committee, that being the investment committee or the finance committee.

(f) Each authorizing body shall establish policies and procedures for the investments as approved by this act. Such policies and procedures shall include the establishment of appropriate controls to ensure that full FDIC insurance coverage is obtained. Controls may include, but not be limited to, using a single official federal employer identification number (FEIN) or taxpayer identification number (TIN) for deposits made by a public unit as determined by the FDIC.

SECTION 2. Tennessee Code Annotated, Section 9-4-504, is amended by adding as a new subsection (f) the following:

(f) A qualified public depository may accept deposits, investments or deposits for placement as provided in § 9-1-118, and may act as custodian of the certificates or other evidences of the deposits by the public entity.

Deposits placed in federally insured institutions in amounts that are fully insured and which are not liabilities of the qualified public depository are not included in the term average daily balance as provided in § 9-4-502(1). However, any funds accepted for deposit or placement which are not placed in federally insured institutions shall be included in the term average daily balance and collateralized as provided herein.

SECTION 3. Tennessee Code Annotated, Title 45, Chapter 2, is amended by adding as a new section 45-2-620, the following:

45-2-620.

(a) A state or national bank or savings institution or savings bank may accept funds for deposit or placement in federally insured institutions within or without the state provided the bank has entered into a deposit agreement or deposit placement agreement with the depositor.

(b) The depository may also enter into a custodial agreement with the customer to maintain any certificate of deposit or other evidences of the deposits so received or placed. Depositors for these purposes shall include the state or any governmental entity.

SECTION 4. This act shall take effect January 1, 2006, the public welfare requiring it.

PASSED: May 26, 2005


JIMMY RAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES


JOHN S. WILDER
SPEAKER OF THE SENATE

APPROVED this 17th day of June 2005


PHIL BREDESEN, GOVERNOR